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OFFICE OF PETITIONS

In re Application of Peters et al.	:	
Application No. 10/809,301	:	Decision on Petition
Filing Date: March 25, 2004	:	
Attorney Docket No. 139282	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a proper manner to the final Office action mailed April 24, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 25, 2006. A Notice of Abandonment was mailed November 1, 2006.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of \$1,540.

Petitioner has submitted a reply to the final Office action in the form of a Request for Continued Examination and amendment.

37 CFR 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above. If the entire delay from the date of abandonment, July 25, 2006, until the date the petition was filed, December 13, 2007, was not unintentional, petitioner must notify the Office.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that

the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. *See Changes to Patent Practice and Procedure*, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Technology Center Art Unit 2837 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



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